Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Authors:	Garcia & Vargas	Analyst:	Darrine Distefano	Bill Number:	AB 11
Related Bills:	See Legislative History	Telephone:	845-6458	Introduced Date:	December 2, 2002
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Agency Designate the City of Brawley As An Enterprise Zone

SUMMARY

This bill would require the California Technology, Trade, and Commerce Agency (TTCA) to designate the City of Brawley as an Enterprise Zone (EZ).

PURPOSE OF THE BILL

According to the author's staff, the purpose of the bill is to make the City of Brawley an EZ in order to attract more businesses into the city and generate more jobs for the citizens in the area.

EFFECTIVE/OPERATIVE DATE

Assuming enactment in 2003, this bill would be effective and operative January 1, 2004.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing federal law provides special tax incentives for empowerment zones and enterprise communities to provide economic revitalization of distressed urban and rural areas.

Qualified zone businesses operating in federal empowerment zones and federal enterprise communities are eligible to receive two tax incentives: (1) tax-exempt private activity bonds to finance certain facilities; and (2) the "brownfields" tax incentive, which allows taxpayers to expense (rather than capitalize) certain environmental remediation expenditures. Qualified empowerment zone businesses are allowed an additional $20,000 depreciation expense deduction.

Under the Government Code, existing state law provides for the designation of EZs and Manufacturing Enhancement Areas (MEA). Using specified criteria, the TTCA designated two MEAs (one of which is the City of Brawley) and 39 of the authorized 42 EZs from the applications received from the governing bodies. EZs are designated for 15 years (except EZs meeting certain criteria may be extended to 20 years), and each MEA is binding for 15 years beginning January 1, 1998.

Board Position:			Department Director	Date
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Under the Revenue and Taxation Code (R&TC), existing state law provides a hiring credit for taxpayers conducting business activities within an MEA. The hiring credit is allowable to businesses located in an MEA for a percentage of wages paid to qualified employees. A qualified employee must be hired after the area is designated an MEA and meet certain other criteria. The business may claim up to 50% of the wages paid to a qualified employee as a credit against tax imposed on MEA income.

Also, under the R&TC, existing state law provides special tax incentives for taxpayers conducting business activities within the EZ. These incentives include a sales or use tax credit, a hiring credit, a business expense deduction, a net interest deduction, special net operating loss treatment, and a tax credit for employees working in an EZ.

THIS BILL

This bill would require TTCA to designate the City of Brawley as an EZ, subject to approval by the city council.

This bill would apply the EZ special tax incentives provisions of the R&TC for taxpayers that conduct business activities within the EZ.

IMPLEMENTATION CONSIDERATIONS

The author's staff indicates that the intent of the bill is to convert the City of Brawley from an MEA to an EZ. However, the language of the bill does not clearly state that intent. As a result, the following implementation concerns have been identified:

If the MEA were converted into an EZ, it is unclear what the designation date and expiration date of the designated EZ would be. In the past, when program areas were converted to EZs, the designation date, and thus, the expiration date of the converted program area remained unchanged. Brawley's expiration date under the MEA is December 2012.

The bill does not repeal the MEA designation; therefore the MEA and the EZ would co-exist. Until the bill is clarified, it would be difficult for the taxpayer and the department to determine the appropriate application of the tax incentives.

An MEA has a single tax incentive: the hiring credit. EZs have several different tax incentives including a similar hiring credit. Other incentives include the sales and use tax credit, business deduction, net operating loss, and a net interest deduction. The MEA hiring credit and its carryover are only applied against income and tax generated from activities in the MEA. The same applies for taxpayers operating in an EZ. If the areas co-exist, it is unclear if the taxpayer would receive two hiring credits for the same expenditures.

Under the assumption that the existing MEA would become the EZ, it is unclear whether a taxpayer would lose the right to apply existing MEA hiring credits and credit carryovers obtained in prior tax years. The author may wish to include language allowing the taxpayer with existing MEA hiring credits to apply that credit against the income from EZ business activities.

If the MEA is designated as an EZ, it is unclear if those employees previously qualifying the taxpayer for the MEA hiring credit would automatically qualify the taxpayer for the EZ hiring credit. If not, the taxpayer would have to obtain new vouchers for those employees.

It is unclear what impact this bill would have on fiscal year taxpayers that are claiming the EZ tax benefits. Taxpayers that operate on a fiscal year may be in the MEA for the first portion of their taxable year and in an EZ for the remaining portion of their taxable year. It is unclear what tax benefits would be available to the fiscal year taxpayer or how the taxpayer would claim the new benefits.

LEGISLATIVE HISTORY

AB 46 (Washington, Stats. 2001, Ch. 587) expanded the number of EZs from 39 to 42.

AB 499 (Cogdill, 2001/2002) would have required the TTCA to designate a new EZ and targeted tax areas within a county within a specified group of counties. This bill was amended June 25, 2002, and later chaptered (Stats. 2002, Ch. 746) to instead require General Services to transfer title of a state facility to the City of Norco.

AB 523 (Vargas, 2001/2002) would have required TTCA to designate an EZ within Imperial County (that included the cities of Brawley and Calexico) that was previously designated as an MEA, upon the request of the county's board of supervisors. This bill was amended September 1, 2002, to add urgency language to the existing Welfare and Institutions Code. The Governor vetoed this bill.

OTHER STATES' INFORMATION

Currently, 29 other states have economic development areas that allow similar tax related incentives to those provided in California's economic development areas. The number of economic development areas varies from state to state. For example, California currently has 53 economic development areas, New York has 58, Florida 32, Illinois 93, and Michigan 23.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

The revenue estimate for AB 46 (Washington, Stats. 2001, Ch. 587) included the revenue loss for the expansion of the three new EZs and is included in the 2003/04 state budget. Designating the City of Brawley as one of those three EZs would create no additional revenue loss. The revenue savings from the elimination of MEA tax credits for Brawley would be insignificant, on the order of $100,000 annually.

LEGISLATIVE STAFF CONTACT

Darrine Distefano	Brian Putler
Franchise Tax Board	Franchise Tax Board
845-6458	845-6333
Darrine.Distefano@ftb.ca.gov	Brian.Putler@ftb.ca.gov